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Attorney for Claimant
Eric Rix

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

In re	)	Case No. 19-30088-DM
)	
PG&E Corporation,	)	Chapter 11
	)	Lead Case, Jointly Administered
and)	
	)	MOTION PURSUANT TO FED. R. BANKR.
PACIFIC GAS AND ELECTRIC	)	PROC. 7015 AND 7017 TO ENLARGE TIME
COMPANY,	)	TO FILE PROOF OF CLAIM PURSUANT
	)	TO FED. R. BANKR. PROC. 9006(b)(1)
Debtors.)	
	)	Date: October 11 th , 2022
[x] Affects both Debtors	)	Time: 10:00 a.m. (Pacific Time)
	)	Place: Telephonic/Video Appearances Only
*All paper shall be filed in the Lead Case,	)	United States Bankruptcy Court
No. 19-30088-DM	)	Courtroom 17,
	)	450 Golden Gate Ave., 16 th Floor
	)	San Francisco, CA
	)	Judge: Hon. Dennis Montali
)	
	)	Objection Deadline: September 27 th , 2022

BACKGROUND

Pursuant to Rules 015 and 7017 of Federal Rules of Bankruptcy Procedure, which incorporate Federal Rules of Civil Procedure 15 and 17, by this motion ("Motion"), Eric Rix ("Movant") moves the court for an order expanding the time to file a Proof of Claim, and allow, Claim Number (not yet

1 assigned), that was filed on September 7th, 2022, with Prime Clerk and submitted with this motion as
2 “Exhibit A”, to be considered timely filed.

3 This Motion is based upon the points and authorities set forth herein and the concurrently
4 filed Notice of Hearing, Declaration of Eric Rix and Declaration of attorney Joseph Feist in support
5 of the Motion, in addition to any evidence or oral argument presented at the time of any hearing on
6 this matter. In support thereof, the Movant, by and through him undersigned counsel, respectfully
7 represent as follows:

8 **BASIS FOR RELIEF REQUESTED**

9 The general bar date in these cases was October 21, 2019 (“Original Bar Date”). The process
10 for submission of timely claims was continued after the Original Bar Date. Pursuant to the Stipulation
11 Between Debtors and Official Committee of Tort Claimants to Extend Bar Date for Fire Claimants
12 and for Appointment of Claims Representative (Dkt No. 4651), the Original Bar Date was extended
13 for the benefit of Unfiled Fire Claimants to December 31, 2019 at 5:00 p.m. (Prevailing Pacific
14 Time). The Debtors’ Chapter 11 plan (“Plan”) was confirmed by court order on June 20, 2020, and
15 pursuant to the Notice of Effective Date, the Plan became effective as of July 1, 2020.

16 This Motion concerns the claim of Eric Rix who never submitted a claim until he hired
17 counsel on September 6th, 2022, and a claim was prepared and submitted on his behalf on September
18 7th, 2022. Mr. Rix’s filing is for an emotional distress claim including zone of danger and nuisance.
19 Mr. Rix lived and continues to live in Magalia, CA before the fire erupted and destroyed his
20 community. Claimant has suffered immensely from losing those he had created meaningful
21 relationships with over the course of the years and loosing cherished personal property. Movant
22 respectfully requests his late claim be accepted and deemed timely.

23 Under Rules 7015 and 7017 of Federal Bankruptcy Procedure (which incorporate Federal
24 Rules of Civil Procedure 15(c) and 17(a)(3)) because there is a lack of bad faith on the part of the

1 Movant and his counsel in failing to submit Mr. Rix's original claim, it is respectfully requested the
2 Court allow an extension of the bar date required to effectuate the purpose of Rules 7015 and 7015, it
3 is respectfully requested the mistake should be allowed to be corrected by permitting the late filing of
4 the Proof of Claim under Bankruptcy Rule 9006(b).

5 Application of the *Pioneer* factors shows that Movants' late filing is the result of excusable
6 neglect and therefore permissible under Rule 9006(b)(1), the Supreme Court explained that Congress,
7 by empowering the courts to accept late filings where the failure to act was the result of excusable
8 neglect, plainly contemplated that courts would be permitted, where appropriate, to accept late filings
9 caused by inadvertence, mistake or carelessness, as well as by intervening circumstances beyond the
10 party's control. *Pioneer Inv. Servs. Co. v. Brunswick Associates L.P.*, (1993) 507 U.S. 380 at 388.
11 The Supreme Court further clarified that whether a claimant's neglect of a deadline is excusable is an
12 equitable determination, taking account of all the relevant circumstances surrounding the claimant's
13 omission. See *id.* At 395. These equitable considerations include (1) The danger of prejudice to the
14 debtor, (2) The length of the delay and its potential impact on judicial proceedings, (3) The reason for
15 the delay, including whether it was within the reasonable control of the movant, and (4) whether the
16 movant acted in good faith.

17 As to the first factor, Movants' late filing will cause no prejudice to Debtors, since the Plan
18 has been confirmed, the associated Fire Victim Trust funded, and so the inclusion of the Movants'
19 claim in the pool of fire victim claims will have no impact at all on the Debtors or the bankruptcy
20 estates.

21 As to the second factor, Movants' delay in filing this claim and any resultant impact on these
22 proceedings are exceedingly modest and immaterial for the same reasons that Debtors will not be
23 prejudiced.

1 As to the third factor, the reason for the delay and whether it was in Movants' reasonable
2 control, he had a reasonable belief that he was not entitled to any claim against PG&E due to his
3 primary residence not suffering any physical damage. The Movant had a traumatic evacuation
4 experience and it led to severe mental anguish, preventing the Movant from prioritizing becoming
5 informed of his rights as a victim in order to file in a timely manner.

6 As a final factor, the Movant is acting in good faith in filing the claim as he was renter at the
7 time of the fire, has continued to be, and suffered the great loss of him community along with
8 extensive mental anguish as a result of his evacuation experience. Based on the above and supporting
9 evidence, Claimants' counsel requests the claim be allowed due to his client's lack of bad faith in him
10 belief that filing a timely proof was not necessary as his home did not suffer any physical damage.

11 CONCLUSION

12 For the reasons set forth above, Movants respectfully request that this Court enter an order
13 pursuant to Bankruptcy Rules 7015, 7017, 9006(b)(1) as follows:

- 14 1. Granting this Motion;
- 15 2. Directing that Exhibit A, the Proof of Claim, Claim Number (not yet assigned), be
16 deemed timely filed;
- 17 3. Granting such other or further relief as the Court deems just and proper.

18 Dated: 9/7/2022

19 /s/ Joseph K. Feist

20 Joseph K. Feist
21 Attorney for Claimant
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